



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2016-0042; FRL-9961-38-Region 3]**

**Approval and Promulgation of Air Quality Implementation Plans; Maryland;  
Revisions and Amendments to Regulations for Continuous Opacity  
Monitoring, Continuous Emissions Monitoring, and Quality Assurance  
Requirements for Continuous Opacity Monitors; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects an omission in the rule language of a final rule pertaining to changes and amendments to Maryland regulations for continuous opacity monitoring (COM or COMs) and continuous emissions monitoring (CEM or CEMs) and to an amendment adding requirements for quality assurance and quality control as they pertain to COMs. EPA approved these revisions to the COMs and CEMs requirements in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This document is effective on **[Insert date of publication in the Federal Register]**.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308 or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 7, 2016, (81 FR 78048), EPA published a final rulemaking action approving revisions and amendments to Maryland

regulations for COMs, CEMs, and quality assurance requirements for COMs.

In the “Identification of Plan” table on page 78052 of the rulemaking action published on November 7, 2016, we added only the title for Maryland regulation COMAR 26.11.31 “Quality Assurance Requirements for Opacity Monitors (COMs)” to 40 CFR 52.1070(c) and inadvertently omitted approved sections COMAR 26.11.31.01 through .12. The intent of the approved rulemaking was to incorporate the entire COMAR 26.11.31 regulation into the Maryland SIP. The revised rule language in this correcting rulemaking action is now adding the omitted language for each section of COMAR 26.11.31 in the Code of Federal Regulations (CFR). These sections were part of the original approval and are to be included in the CFR through this correction.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this rule final without prior proposal and opportunity for comment because we are merely correcting an inadvertent, incorrect citation in a previous action which fully discussed the regulation added to the Maryland SIP and provided a proposal and opportunity for comment. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

#### **Statutory and Executive Order Reviews:**

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a

“significant regulatory action” and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). Because the agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice

related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of **[Insert date of publication in the Federal Register]**.

EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the **Federal Register**. This correction of the rule language in 40 CFR 52.1070(c) pertaining to changes and amendments to Maryland regulations for COMs and CEMs is not a “major rule” as defined by 5 U.S.C. 804(2).

Dated: March 24, 2017.

Cecil Rodrigues,  
Acting Regional Administrator,  
EPA Region III.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart V—Maryland**

2. In § 52.1070, the table in paragraph (c) is amended by adding under heading

“26.11.30 Policies and Procedures Relating to Maryland's NO<sub>x</sub> Reduction and Trading

Program” entries “26.11.31.01 through 26.11.31.12” in numerical order to read as follows:

**§ 52.1070 Identification of plan.**

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(c)\* \* \*

**EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND  
SIP**

<b>Code of Maryland Administrative Regulations (COMAR) citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Additional explanation/ citation at 40 CFR 52.1100</b>
* * * * *				
<b>26.11.30 Policies and Procedures Relating to Maryland's NO<sub>x</sub> Reduction and Trading Program</b>				
**	**	*	*	*
26.11.31.01	Scope	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.02	Applicability	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.03	Incorporation by Reference	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.04	Definitions	6/13/2011	11/7/2016 81 FR 78048	

<b>Code of Maryland Administrative Regulations (COMAR) citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Additional explanation/ citation at 40 CFR 52.1100</b>
26.11.31.05	Principle	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.06	Quality Control Requirements	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.07	Opacity Calibration Drift Assessment	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.08	Audit Frequency	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.09	Performance Audit	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.10	Calibration Error Methods	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.11	Zero Alignment Audit	6/13/2011	11/7/2016 81 FR 78048	
26.11.31.12	Corrective Actions	6/13/2011	11/7/2016 81 FR 78048	
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